

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Peter Hoy (S7)	Team: Team # 5	CCRB Case #: 201104563	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/12/2011 12:58 AM	Location of Incident: 575 St. Marks Avenue	Precinct: 77	18 Mo. SOL 10/12/2012	EO SOL 10/12/2012	
Date/Time CV Reported Tue, 04/12/2011 8:56 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 04/12/2011 8:56 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Vitaliy Zelikov	01346	936353	PBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Daniel Zollo	05627	919899	077 PCT
2. POM John Yen	05068	949815	PBBN

Officer(s)	Allegation	Investigator Recommendation
A.SGT Vitaliy Zelikov	Abuse: Sgt. Vitaliy Zelikov supervised the stop of § 87(2)(b)	
B.SGT Vitaliy Zelikov	Abuse: Sgt. Vitaliy Zelikov searched § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On April 12, 2011, § 87(2)(b) filed a complaint by telephone with the Civilian Complaint Review Board. Earlier that morning, at 12:58 a.m., § 87(2)(b) was stopped by the police in the vicinity of 575 St. Marks Avenue in Brooklyn. The following allegations resulted:

- **Allegation A - Abuse of Authority: Sgt. Vitaliy Zelikov supervised the stop of** § 87(2)(b)
§ 87(2)(g)
- **Allegation B - Abuse of Authority: Sgt. Vitaliy Zelikov searched** § 87(2)(b) § 87(2)(g)
- § 87(4-b), § 87(2)(g)

On April 14, 2011, the undersigned explained the option of mediation to § 87(2)(b) however, § 87(2)(b) refused to mediate the complaint.

Results of Investigation

Civilian Statements

Complainant: § 87(2)(b)

- § 87(2)(b)

CCRB Testimony

On June 23, 2011, § 87(2)(b) was interviewed at the CCRB (encl. 3D-E). § 87(2)(g)

On April 12, 2011, at what § 87(2)(b) estimated as 12:30 a.m. but the investigation determined to be 12:58 a.m., § 87(2)(b) parked his car near St. Mark's Avenue and Franklin Avenue in Brooklyn and began walking to his building, located at § 87(2)(b). A marked police car pulled up and two officers exited, identified by the investigation as PO John Yen and Sgt. Vitaliy Zelikov from Patrol Borough Brooklyn North. In § 87(2)(b)'s testimony, he described PO Yen as a slim Asian male in his 20s that stood about five feet and eight inches, and described Sgt. Zelikov as a white male in his 30s that stood about five feet and eight inches and whose nametag read "Zolo" or "Zollop." In § 87(2)(b)'s initial complaint, he said the number of the police vehicle number was 5100, and in a follow-up telephone conversation, § 87(2)(b) said the subject officer's nametag may have read "Zolof," "Maylock," "Maylof" or "Zolock." The officers approached § 87(2)(b) and Sgt. Zelikov asked him about where he was going. As he asked the questions, Sgt. Zelikov reached into § 87(2)(b)'s front and back pants pockets and his jacket pockets. Sgt. Zelikov did not frisk § 87(2)(b). In § 87(2)(b)'s pockets at the time were some papers, a wallet, a bible, a large key chain and a cell phone. Sgt. Zelikov removed the papers and wallet from § 87(2)(b)'s pockets, looked through his wallet and took out his ID. Sgt. Zelikov explained that he had to write down § 87(2)(b)'s information because they stopped him. Sgt. Zelikov continued to ask § 87(2)(b) questions throughout the incident, but § 87(2)(b) refused to

answer the questions. The officers gave § 87(2)(b) his ID back, returned to their vehicle and drove away.

Attempts to Contact Civilians

§ 87(2)(b) recalled that a white male and a white female walked by during the incident but he did not recognize them and does not know their names or contact information. The officers did not have information about any potential witnesses. Accordingly, no civilian witnesses were interviewed.

NYPD Statements:

Witness Officer: PO JOHN YEN

- § 87(2)(b) years old on the incident date, PO Yen is an Asian male, stands five feet and ten inches, weighs 170 pounds and has black hair and brown eyes.
- PO Yen worked from 3:00 p.m. on April 11, 2011, to 3:35 a.m. on April 12, 2011, assigned to be Sgt. Zelikov's operator. At 11:35 p.m., on April 11, 2011, his regular tour ended and he was assigned to overtime impact patrol, in uniform and assigned to marked vehicle number 5100.

Stop, Question and Frisk Report

Stop, Question and Frisk Report § 87(2)(b) (encl. 4A-B) indicates that on April 12, 2011, at 12:58 a.m., PO Yen stopped a man in the vicinity of 575 St. Marks Avenue in Brooklyn. The man's name is not listed on the report, but he is described as a § 87(2)(b)-old black male that stood five feet and ten inches, weighed 180 pounds and had black hair and brown eyes. The man was suspected of grand larceny auto and was frisked during the stop. The circumstances leading to the stop were listed as "actions indicative of casing location" and "furtive movements." The additional factors were listed as "time/day of week corresponding to criminal activity," "evasive, false or inconsistent responses to officer's questions" and "changing direction at the sight of officer." The bases for the frisk were listed as "inappropriate attire--possible concealing weapon," "refusal to comply with officer's instruction" and violent crime suspected."

Memo Book

PO Yen did not make any memo book entries related to this incident (encl. 5A-B). PO Yen explained that immediately following the incident, he responded to a call for back-up and assisted with an arrest at the stationhouse, and therefore did not have a chance to make a memo book entry.

CCRB Testimony

On January 3, 2012, PO Yen was interviewed at the CCRB (encl. 6A-B).

PO Yen initially did not recall the incident or recognize a photograph of § 87(2)(b) however, upon being presented with police documentation from the incident, he recalled some details about the stop. PO Yen recalled that on the morning of April 12, 2011, while he was assigned to overtime impact patrol in a vehicle with Sgt. Zelikov, he observed an individual, identified by the investigation as § 87(2)(b) standing by a vehicle near 575 St. Marks Avenue. PO Yen made eye contact with § 87(2)(b) at which point, § 87(2)(b) quickly put something in his jacket pocket, turned and began walking away. This furtive movement raised PO Yen's suspicion that § 87(2)(b) was involved in grand larceny auto. PO Yen noted that it was early in the morning and that the incident location has a high incidence of automobile break-ins and thefts. PO Yen then stopped § 87(2)(b) but did not recall if it was his decision or if Sgt. Zelikov instructed him to make the stop. PO Yen asked § 87(2)(b) for his name, but § 87(2)(b) did not respond. PO Yen then frisked the area of § 87(2)(b)'s jacket where he had placed something, but PO Yen did not search § 87(2)(b)'s pockets or see Sgt. Zelikov search them. PO Yen frisked § 87(2)(b) because he suspected the object § 87(2)(b) placed in his jacket

pocket was a weapon. PO Yen did not recall all the reasons he suspected this, but upon being prompted by the Stop, Question and Frisk Report, explained each of the notation he made on the report. PO Yen said that “actions indicative of casing victim or location” referred to § 87(2)(b) standing next to a vehicle in an area with frequent automobile thefts; that “furtive movements” referred to § 87(2)(b) making eye contact with PO Yen and then quickly stuffing something into his jacket pocket; that “time/day of week corresponding to criminal activity” referred to the fact that it was early in the morning and that the area has a high incidence of automobile break-ins and thefts; that “evasive, false or inconsistent responses to office’s questions” referred to § 87(2)(b)’s refusal to provide his name; that “changing direction at sight of officers” referred to § 87(2)(b) turning to walk away when he saw PO Yen; that “inappropriate attire—possible concealing weapon” referred to the heavy jacket that § 87(2)(b) was wearing at the time; that “refusal to comply with officer’s instruction” may have referred to § 87(2)(b) refusing to put his hands down during the incident; and that “violent crime suspected” referred to the suspected grand larceny auto.

Subject Officer: SGT. VITALIY ZELIKOV

- § 87(2)(b) years old on the incident date, Sgt. Zelikov is a white male, stands six feet, weighs 205 pounds and has brown hair and green eyes.
- Sgt. Zelikov worked from 2:50 p.m. on April, 2011, to 1:47 a.m. on April 12, 2011, in uniform and assigned to impact patrol in the 77th Precinct in marked RMP number 5100 with PO Yen.

Memo Book

PO Zelikov did not make any memo book entries related to this incident (encl. 7A-C).

CCRB Testimony

On November 4, 2011, Sgt. Zelikov was interviewed at the CCRB (encl. 8A-B). During this interview, he testified that he was not on duty at the time of the incident.

A review of Sgt. Zelikov’s memo book indicated that he was on duty at the time of the incident; accordingly, on February 1, 2012, Sgt. Zelikov was interviewed at the CCRB a second time (encl. 8C-D). During this interview, Sgt. Zelikov acknowledged being on duty at the time of the incident, but did not recall the incident or recognize a photograph of § 87(2)(b). He confirmed that he was working with PO Yen and upon reviewing the stop and frisk report for § 87(2)(b) acknowledged signing off on the report, but did not recall stopping or searching anyone at the time and place of occurrence.

NYPD Documents

Roll Call

The 77th Precinct roll call from the third tour on April 11, 2011, (encl. 11A-D) indicates that Sgt. Zelikov was assigned to vehicle number 5100, and that PO Yen was assigned to Impact.

RMP Assignment Sheets

The 77th Precinct RMP assignment sheets from April 11, and April 12, 2011, (encl. 12A-T) indicate that Sgt. Zelikov was assigned to RMP number 5100.

Status of Civil Proceedings

- As of October 24, 2011, § 87(2)(b) has not filed a Notice of Claim with the City of New York with regard to the incident (encl. 14D).

Civilians Criminal History

- § 87(2)(b)

§ 87(2)(b)

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Civilian CCRB History

- § 87(2)(b) [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

Subject Officers CCRB History

- Sgt. Vitaliy Zelikov has been a member of the service for seven years and there are no substantiated CCRB allegations against him (encl. 2A-B).

Conclusion

Identification of Subject Officers

§ 87(2)(b) described the subject officer as a white male in his 30s whose name sounded like “Zolo,” “Zollop,” Zolof,” “Maylof” or “Zolock.” § 87(2)(b) said his partner was an Asian male in his 20s, and said the officers’ vehicle number was 5100. These descriptions match the pedigree information of Sgt. Zelikov, a § 87(2)(b)-year-old white male, and PO Yen, a § 87(2)(b)-year-old Asian male. The 77th Precinct Roll Call and RMP assignment sheets from the date of incident indicate that Sgt. Zelikov was assigned to RMP number 5100, and both officers confirmed that they were partnered together at the time of the incident. Furthermore, PO Yen acknowledged conducting a stop at the time and place of the incident and the Stop, Question and Frisk Report indicates that PO Yen stopped a 31 year old black male, which matches the pedigree information of § 87(2)(b) § 87(2)(g)

Investigative Findings and Recommendations

Allegations Not Pleaded

PO Yen said he frisked § 87(2)(b) during the stop; however, because § 87(2)(b) specifically stated he was not frisked and because he made no allegations against PO Yen, the frisk is not pleaded.

Allegation A - Abuse of Authority: Sgt. Vitaliy Zelikov supervised the stop of § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that he was stopped by Sgt. Zelikov and PO Yen upon parking near and walking to his building. Sgt. Zelikov did not recall the incident, but PO Yen acknowledged that he stopped § 87(2)(b) while partnered with Sgt. Zelikov, and he completed a Stop, Question and Frisk Report documenting the stop.

According to Patrol Guide section 212-11 (encl. 1A), an officer may stop an individual when he reasonably suspects the person has committed, is committing or is about to commit a felony or a Penal Law misdemeanor. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B - Abuse of Authority: Sgt. Vitaliy Zelikov searched § 87(2)(b)

§ 87(2)(b) alleged that during the stop, Sgt. Zelikov searched his pants pockets and jacket pockets. Sgt. Zelikov had no recollection of the incident and PO Yen did not recall Sgt. Zelikov searching § 87(2)(b). The Stop, Question and Frisk Report indicates that § 87(2)(b) was not searched. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Team: 5

Investigator:

Signature

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Date

Supervisor:

Title/Signature

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Reviewer:

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Reviewer:

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